IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WA.No. 97 of 2004
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AGAINST THE JUDGEMENT IN WPC.24565/2003 Dated 23/10/2003
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APPELLANT/2ND RESPONDENT:
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MUNDAKKAYAM GRAMA PANCHAYATH,
REP. BY THE SECRETARY, MUNDAKKAYAM GRAMA
PANCHAYATH, KOTTAYAM DISTRICT.

BY ADV. SRI.LIJI.J.VADAKEDOM
SRI.JOSY ANTONY

RESPONDENTS/PETITIONERS & RESPONDENTS. 1, 3 & 4
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1. P.S.ABDUL SALAM, S/O.SAYED MOHAMMED,
AGED 49 YEARS, PUTHUPARMBIL HOUSE, R.P.C. P.O.
VANDANPATHAM, MUNDAKKAYAM.

2. A.RAHMATHULLAH, AGED 57, S/O.AHAMED
RAWTHER, KOLLAMPARAMBIL, LOSSWAY,
MUNDAKKAYAM.

3. STATE OF KERALA, REP. BY THE
SECRETARY, LOCAL ADMINISTRATION DEPARTMENT,
THIRUVANANTHAPURAM.

4. DISTRICT COLLECTOR, KOTTAYAM.

5. JOHNSON C.J. S/O.JOSEPH,
CHETTIPARMBIL HOUSE, KARINILAM P.O. MUNDAKKAYAM.

BY ADV. SRI.P.A.MOHAMMED SHAH
R3 & R4 BY SR.GOVERNMENT PLEADER SMT.MEERA

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**H.L.DATTU, C.J. & K.T.SANKARAN, J.**

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**W.A.No.97 of 2004**

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Dated, this the 10th day of July, 2007

**JUDGMENT**

**K.T.Sankaran, J.**

Second respondent in W.P.(C) No.24565 of 2003 is the appellant in this writ appeal. Respondents 1 and 2 herein filed the writ petition for the following reliefs:

> "(i) to call for the records relating to Exts.P1 to P12 and to issue a writ of mandamus directing the 2nd respondent to cancel the auction dated 23.7.2003 which was conducted illegally and to take steps to give right to start meat stall to the petitioners and otherS accordinG to the provisions of Panchayat Raj Act by issuing licence;
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> (ii) to direct the 1st respondent to consider and dispose of Ext.P2 representations in accordance with law."

2. Ext.P11 is an auction notice issued by the Panchayat proposing to auction the right to vend meat in the Panchayat area.

3. The learned Single Judge relying on the decision in **Peter** v. **Perayam Panchayat** (1996 (1) KLT 362) held that the Panchayat will have no right or authority to reject the licence applications to run meat stalls in the very same area even in adjoining places where it proposed to auction the right to occupy or sell meat in the premises provided by it. The appellant is aggrieved by the observation made by the learned Single Judge that any application for renewal of licence from the petitioners cannot be rejected on the basis of Ext.P11

notification. Ext.P11 is a notification issued by the Panchayat to auction the right to conduct meat stalls. It is held by this Court in **Peter** v. **Perayam Panchayat** (1996) (3) KLT 362), **Salim** v. **Deputy Director of Panchayats** (2003 (3) KLT 516) and **Beerankutty** v. **Sulthan Bathery Grama Panchayat** (2003 (3) KLT 256) that the Panchayat has no jurisdiction to restrict vending of meat in the particular places earmarked by the Panchayat and that it would offend Article 19 (1)(g) of the Constitution of India. The observation made by the learned Single Judge that the application of the petitioners for renewal of licence cannot be rejected is perfectly justified since the petitioners are running meat stalls in the shops which were in their possession or occupied by them. Under the pretext of fixing the areas where meat stalls could be conducted, as observed by the learned Single Judge, the Panchayat has no authority to reject the application for renewal of licence on the ground that the Panchayat has fixed specified areas for vending meat.

Challenge in the writ appeal is without substance and therefore, the same is dismissed.

(**H.L.DATTU)**
**CHIEF JUSTICE**

**(K.T.SANKARAN)**
**JUDGE**

vns